

## **RSC Question and Answer: President's Emergency Plan for AIDS Relief (PEPFAR)**

*February 26, 2008*

The PEPFAR reauthorization legislation will be marked up on Wednesday, February 27<sup>th</sup>, 2008 in the House Committee on Foreign Affairs. The current draft text for Chairman Berman's bill raises serious concerns from both a fiscal and a pro-life and values perspective. This document will address the most critical issues that this reauthorization raises.

### **How does the draft expand the scope of PEPFAR?**

The Berman draft would expand the scope of PEPFAR beyond the prevention of HIV/AIDS and related infections to allow sexual education, gender based violence, gender equality, job training, universal basic education, property rights, and generalized family planning issues to be addressed with PEPFAR funds. Some conservatives may be concerned that this proposed expansion far outreaches the original intent of PEPFAR, and may unnecessarily impose western views not shared by the African communities where such programs operate.

### **Does the Berman draft mandate that PEPFAR funds be used for "family planning"?**

Yes, the Democrats have chosen to keep all "family planning" linkages in the draft. The Berman draft language creates a family planning mandate, requiring the integration of family planning into nearly every aspect of the program. This proposed legislation would effectively open up a \$50 billion pot of funds for family planning activities.

### **How will integrating "family planning" into PEPFAR affect current efforts?**

Efforts to integrate controversial abortion-related services into a bipartisan and consensus program would undermine the integrity of the program and could also adversely affect faith-based groups. Some may view this as an attempt to tap into PEPFAR's resources in order to subsidize family planning and reproductive health initiatives. Integrating "family planning" into PEPFAR will only serve to expand a pro-abortion agenda. For instance, should Planned Parenthood of Ghana wish to receive PEPFAR funds, they could simply add a minimal HIV/AIDS prevention component to their otherwise laundry list of family planning initiatives to receive funds under this legislation. Another concern regarding this integration is that by allowing monies intended to address the HIV/AIDS pandemic to be diverted to

other health concerns, we may ultimately dilute the effectiveness of PEPFAR in addressing HIV/AIDS.

### **Is the “conscience clause” retained in the draft legislation?**

Yes, the Berman draft legislation contains a “conscience clause,” which states that an organization cannot be required to promote a prevention method or treatment program to which the group has a religious or moral objection. However, incorporating “family planning” may render this clause meaningless if faith-based organizations are required to support such activities in order to receive PEPFAR funds. This change is particularly problematic in the context of HIV programming, which in many areas in Africa is provided mostly by faith-based organizations.

### **How would the integration of “family planning” affect faith-based organizations currently receiving PEPFAR funds?**

While the House bill retains the “conscience clause,” it is undermined by the integration of “family planning” language. This change will likely cause the grant process to favor applicants that offer both family planning and HIV/AIDS programs. According to his testimony before the Senate Foreign Relations Committee hearing, Ken Hackett, President of Catholic Relief Services, said that his group, which runs over 250 HIV and AIDS projects in 52 countries, would be “unable to participate in PEPFAR” if family planning services were required or given preferential treatment in the grant process.<sup>1</sup>

### **Is the Mexico City Policy (MCP) applied to PEPFAR funds?**

No. Under this proposed legislation, international groups that perform and/or promote abortion will now be able to obtain PEPFAR monies for HIV/AIDS programs and thereby supplement and expand their abortion activities.

### **Why was the Mexico City Policy not applied to PEPFAR in 2003?**

In 2003, the President issued a memorandum stating, without explanation, that the MCP does not apply to PEPFAR. According to the Administration, this was to ensure that money was rolled out quickly and efficiently to organizations that were already in the best position to begin the effort. However, the lack of this policy over PEPFAR funds has created the potential for a foreign organization that performs and/or promotes abortion (who would not be able to receive family planning assistance normally under the MCP) to receive PEPFAR money for HIV/AIDS programs. Under current law, an abortion performer and/or promoter (family planning organization) can receive PEPFAR funds for its HIV/AIDS services, so long as it pays for the family planning services that it offers with non-U.S. funding.

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<sup>1</sup> Ken Hackett, written testimony before Senate Foreign Relations Committee, December 13, 2007.

### **Why may it be necessary to apply the Mexico City Policy to PEPFAR now?**

As the PEPFAR program has matured since its inception, it may no longer be necessary to withhold the MCP from PEPFAR funding. There are numerous organizations in existence that would benefit from PEPFAR funding for HIV/AIDS programs—organizations that do not perform and/or promote abortion. Many of these organizations may not have existed prior to PEPFAR, but have developed since U.S. aid to Africa has increased. As is the argument with the Title X program funding pro-abortion organizations such as Planned Parenthood, money is fungible, and funds given to organizations who perform and/or promote abortion (while not being used directly for such abortions) will effectively free up funding for a pro-abortion agenda. Furthermore, if U.S. dollars fund pro-abortion organizations, it is possible that they will use such funding to become a part of any re-building effort in Africa, effectively inserting their pro-abortion agenda into the re-building of the health care system.

### **How does the draft legislation affect the Abstinence/Be Faithful/condoms (ABC) program?**

Current law ensures that at least 33% of PEPFAR prevention funds are spent on abstinence and “be faithful” programs—programs which have proven to be effective within affected African populations. The Democrats have removed this requirement in their draft proposal. The concern is that the Berman bill would effectively eliminate any abstinence and “be faithful” aspects of the evidence-based ABC approach. Many are legitimately concerned that if the 33% funding requirement for AB is removed, many of the prevention funds will be used for the distribution of condoms and other less successful (but arguably easier) programs that large organizations would prefer to focus on. Loss of the AB programs could cause the significant reductions in HIV prevalence rates to be a thing of the past. For more information on the ABC program, see the PEPFAR [Policy Brief](#) released by the RSC on February 5, 2008.

### **What is the current funding for PEPFAR?**

In 2003, PEPFAR was authorized at \$15 billion over five years. Since then, PEPFAR has received \$18.3 billion in appropriations over the past five fiscal years. The President’s FY 2009 budget requested that funding for PEPFAR be doubled to \$30 billion.

### **How much of an increase is the draft legislation proposing?**

Chairman Berman’s draft legislation provides an authorization level of \$50 billion, \$35 billion above currently authorized levels. Some African non-governmental organizations (NGOs) have asked that the U.S. not grant such a large increase in funding because of capacity issues—some organizations do not have the infrastructure to support such funding, meaning that much of the funding could be misspent. It will be critical to ensure that what resources are provided through PEPFAR are spent on evidence-based programs that have proven to be successful and that respect the pro-family and pro-life cultures of the countries in which they are implemented. Furthermore, the U.S. already provides roughly \$400 million a year for foreign NGO family planning activities.

## **How are the current evidence based measures working in Africa to decrease the spread and infection rates of HIV/AIDS? What are some specific examples of the evidence?**

Currently, the ABC programs, along with treatment programs authorized by the original PEPFAR, are working to prevent the transmission and spread of HIV/AIDS effectively. Evidence from Senegal, Zambia, and Uganda show that HIV infection rates drop drastically when campaigns encouraging abstinence for those who are not married and fidelity for those who are married are advertised.<sup>2</sup> Of particular interest, Uganda achieved particular success when, between 1991 and 2001, HIV rates dropped by 71 percent. According to researchers, the drop was the most dramatic for the age group of 15—24, a fact that they believed was directly connected to the campaign's efforts to effect behavioral change by encouraging fidelity and abstinence. According to researchers, their findings indicate "that substantial HIV reductions in Uganda resulted from public-health interventions that triggered a social process of risk avoidance manifested by radical changes in sexual behaviors."<sup>3</sup>

## **Does the draft legislation contain the prostitution pledge from the original 2003 PEPFAR?**

No, the proposed reauthorization would remove the current legislative requirement that no HIV/AIDS funding may go to a group that does not explicitly oppose prostitution and sex trafficking. The U.S. Agency for International Development has implemented this prohibition by requiring any group that receives funding to sign a pledge affirming its opposition to prostitution and sex trafficking (known as the Prostitution Pledge). Removing this requirement would undermine its purpose, which is to ensure that U.S.-funded groups support the government's message to reduce behavioral risks which are associated with such activities as prostitution and sex trafficking. When considering that one of the main goals of PEPFAR is to effect behavioral change, allowing organizations who support or encourage prostitution (a high-risk behavior) seems to be inconsistent with the program's objectives.

## **What are the arguments against the prostitution pledge?**

Some organizations want to be able to support prostitution and sex trafficking as a viable work option for women, and still receive PEPFAR funding for their work to promote healthy lifestyles to avoid the spread of HIV/AIDS. The pledge has been the subject of two court challenges—claiming that the pledge violated the organization's first amendment right to free speech. Other groups, particularly faith-based groups, have accepted the pledge requirement and indicate that they are working with prostitutes and other high-risk groups without difficulty. Faith-based groups also point out the severe exploitation, health risks, and even violence to which prostitutes are subjected, and emphasize the importance of providing alternative income-generating options for these women.

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<sup>2</sup> "ABC Guidance #1 for United States Government In-Country Staff and Implementing Partners Applying the ABC Approach to Preventing Sexually-Transmitted HIV Infections Within the President's Emergency Plan for AIDS Relief," at <http://www.state.gov/documents/organization/57241.pdf>.

<sup>3</sup> Rand L. Stoneburner and Daniel Low-Beer, "Population-Level HIV Declines and Behavioral Risk Avoidance in Uganda," *Science*, Vol. 304, No. 5671 (April 30, 2004), pp. 714-718.

## **Does the proposed reauthorization address the need for transparency in the United Nations' Global Fund?**

No, there are no additional transparency measures proposed for the UN Global Fund in the current draft (a portion of PEPFAR funds flow through the Fund). Currently, the U.S. provides one-third of all UN Global Fund money—although the program is designed to be a “partnership between governments.” While an important aspect of the global strategy to fight HIV/AIDS, TB and malaria, the Fund does not provide any information about its grant recipients or their activities, and is lacking in basic oversight and monitoring. Nor is the UN Global Fund covered by **any** pro-life policy (such as the Mexico City Policy, or the Kemp-Kasten Amendment, which prohibits funding of any organization that either supports or participates in the management of a program of coercive abortion or involuntary sterilization). There is documentation proving that the UN Global Fund may be granting money to organizations such as Marie Stopes (the UK equivalent to Planned Parenthood), the United Nations Population Fund (which supports China’s “one-child” policy), as well as the Chinese Health Department itself (supporting the “one-child” policy). If this legislation is enacted, the proponents of the Chinese one-child policy will have successfully done an end run around Kemp-Kasten.

Unfortunately, due to the lack of accountability and transparency in the UN Global Fund, U.S. foreign aid dollars cannot be tracked through the program. This weakness is not addressed in the proposed reauthorization, and furthermore, the reauthorization proposes to increase the current ceiling of 33% U.S. contributions to the UN Global Fund. The purpose of this ceiling restriction was to ensure that the UN Global Fund pursue and live up to the purpose for which it was created—to attract donations on a global level (making it multilateral, involving other countries besides the U.S.). The proposed bill would alter the current funding restriction by allowing the President to suspend such a ceiling if “such suspension would further the purposes of this Act.” Many conservatives may be concerned that this would put all of the power of opening up large sums of money, to a program which is not accountable for such money, at the whim of the executive branch. For more information on the UN Global Fund, see the PEPFAR [Policy Brief](#) released by the RSC on February 5, 2008.

## **What are some examples of waste, fraud, and abuse within the Global Fund account?**

According to a [Boston Globe article](#), “Dr. Richard G.A. Feachem, the leader of the Global Fund to Fight AIDS, Tuberculosis, and Malaria, also frequently dipped into the office’s petty cash, once spending \$225.86 to rent a suit for a wedding involving the Dutch royal family—and then double-billed the organization for the suit, the report said.” The article goes on to list numerous other irresponsible expenditures.

In addition, the following abuse was identified by the Heritage Foundation in [their report](#) on PEPFAR:

... a government inquiry in Uganda revealed that tens of millions of dollars in Global Fund grants to the country were plundered by high-ranking government officials, leading one source to report that “the phrase ‘Global Fund’ has become

synonymous with graft in Uganda.” Allegations of corruption in Global Fund activities have arisen in other countries as well, including Burma, Kenya, and Ukraine.<sup>4</sup>

### **What is the “treatment floor”, and how is it addressed in the draft legislation?**

The treatment floor is a provision in the 2003 PEPFAR that requires 55 percent of all PEPFAR funds to be used for treatment of HIV/AIDS, leaving the other 45 percent for prevention programs. The purpose of this requirement was to fight the tendency of the foreign aid establishment to lobby foreign aid donors to spend money primarily on meetings, travel, consultants, “technical assistance” and foreign aid contractors based in Washington, DC and European capitals. The treatment floor serves as a way to make sure that PEPFAR money is spent in a way that will actually help Africans, which is the main priority of the program. The current draft legislation mentions neither the abstinence funding requirement, nor the treatment floor requirement. This raises serious concerns among many conservatives, least among those being that the lack of a prescriptive treatment floor leaves the program open to increased fraud and abuse.

### **What organizations support the treatment floor?**

One of the largest AIDS treatment programs in the world, the AIDS Healthcare Foundation, treating 33,000 people in 10 countries, is vehemently opposed to the removal of the treatment floor. According to a recent press release, “Congress’ proposed reauthorization bill removes a requirement that 55% of all PEPFAR funds be spent on medical treatment, and its current proposed version of the bill broadens the scope of the program, which AHF believes will undermine the success the plan had yielded to date.”<sup>5</sup>

### **Does the Berman draft mandate that PEPFAR funds be used for “reproductive health”?**

No, the Democrats have removed the “reproductive health” linkage in the Berman draft. While this is a step in the right direction, a host of other concerns remain with the legislation.

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<sup>4</sup> Rachel Scheir, “African Graft Stings Donors,” *Christian Science Monitor*, June 1, 2006, at [www.csmonitor.com/2006/0601/p06s02-woaf.html?s=hns](http://www.csmonitor.com/2006/0601/p06s02-woaf.html?s=hns)

<sup>5</sup> [http://www.aidshealth.org/index.php?option=com\\_content&task=view&id=1246&Itemid=409](http://www.aidshealth.org/index.php?option=com_content&task=view&id=1246&Itemid=409)